

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.: _____/19

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JOHN FINNIGAN,Plaintiffs designate
BRONX COUNTY
as place of trial.*Plaintiff,*

-against -

The basis of venue is
plaintiff's residence at
1827 Mayflower Ave., Apt.
1F, Bronx, New York 10461LINDA LIONETTI and THE DUGOUT SPORTING
GOODS, INC.,SUMMONS

County of Bronx

Defendants.
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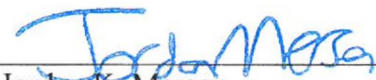
To the above-named defendants:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case your failure to appear or answer, judgement will be taken for the relief demanded herein.

A COPY OF THIS SUMMONS WAS FILED WITH THE CLERK OF THE COURT, BRONX COUNTY ON _____ IN COMPLIANCE WITH CPLR §§305(a) AND 306(a).

Dated: New York, New York
August 14, 2019

MERSON LAW, PLLC

By: 
Jordan K. Merson
Attorneys for Plaintiff
150 East 58th Street 34th Floor
New York, New York 10155
(212) 603-9100

Defendants' Addresses:

LINDA LIONETTI

21 Howe Place

Bronxville, NY 10708

The Dugout Sporting Goods, Inc.

1211 Castle Hill Ave.

Bronx, NY 10462

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.: _____/19

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JOHN FINNIGAN

Plaintiff,

-against -

**VERIFIED
COMPLAINT**LINDA LIONETTI and THE DUGOUT SPORTING
GOODS, INC.*Defendants.*

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COMPLAINT AND JURY TRIAL DEMANDED

Plaintiff JOHN FINNIGAN (hereinafter "Plaintiff" or "Mr. Finnigan") by and through his counsel Merson Law, PLLC, and as for his Complaint in this action against Defendant LINDA LIONETTI and THE DUGOUT SPORTING GOODS, INC hereby alleges the following:

NATURE OF THE CLAIM

1. In approximately 1977, Plaintiff was sexually abused by Defendant LINDA LIONETTI at and of The Dugout Sporting Goods, Inc.
2. Defendant was known among the community and the children as a sexual predator.
3. Despite The Dugout Sporting Goods, Inc.'s knowledge that Defendant sexually abused its employees and/or had the propensity to sexually abuse its employees, The Dugout Sporting Goods, Inc. allowed and/or encouraged Defendants unfettered access to its young male employees.

4. In fact, the only employees The Dugout Sporting Goods, Inc. ever hired were young male children for the Defendant LINDA LIONETTI to prey on.

5. When Plaintiff was approximately 16-years-old, he was employed as a stock boy by The Dugout Sporting Goods, Inc. and Defendant.

6. When Plaintiff collected his paychecks, Defendant would instruct Plaintiff to learn about sex. When Plaintiff would return to work, Defendant would harass Plaintiff asking if he had done what she had asked.

7. When Defendant's husband was away on weekends, Defendant would force Plaintiff to come to her apartment where she would forcibly kiss him, fondle him and otherwise sexually abuse him.

8. Defendant would force Plaintiff to perform oral sex on her.

9. Defendant was able to manipulate Plaintiff because she knew Plaintiff needed the job to help support his family including his sick mother.

10. Plaintiff eventually told Defendant that he was going to tell her husband about the abuse. Defendant then accused Plaintiff of stealing so that she could fire him from The Dugout Sporting Goods, Inc.

11. Even after Plaintiff ceased working at The Dugout Sporting Goods, Inc., Defendant attempted to find out where Plaintiff was working so that she could further harass and abuse him.

12. At the time of the abuse, Plaintiff was sixteen years old.

13. At the time of the abuse, Ms. Lionetti was approximately 29 years old.

14. In addition to the physical injuries from being assaulted and battered, Mr. Finnigan suffered and will continue to suffer permanent psychological trauma for the rest of his life.

15. The predatory, sexual abuse on Mr. Finnigan by Defendant left him with severe and permanent physical and psychological injuries.

PARTIES

16. At all times herein mentioned, defendant THE DUGOUT SPORTING GOODS, INC. was a corporation incorporated in the State of New York and by virtue of the laws of the State of New York.

17. At all times herein mentioned, defendant THE DUGOUT SPORTING GOODS, INC. was located at 1211 Castle Hill Avenue, Bronx, New York 10462.

18. At all times herein mentioned, defendant LINDA LIONETTI was an agent, servant and/or employee of defendant THE DUGOUT SPORTING GOODS, INC.

19. At all times herein mentioned, defendant LINDA LIONETTI was operating under the direction, control and supervision of THE DUGOUT SPORTING GOODS, INC. and its agents, servants and/or employees.

FOR A FIRST CAUSE OF ACTION AGAINST LINDA LIONETTI

(BATTERY)

20. Plaintiff repeats reiterates, and reallages each and every allegation contained in those paragraphs of the Complaint marked and designated 1. through 19., inclusive, with the same force and effect as if hereafter set forth at length.

21. In approximately 1977, Defendant sexually abused Plaintiff numerous times while Plaintiff was an employee under Defendant's supervision and control.

22. Defendant's predatory, sexual, and unlawful acts against plaintiff, amounted to a series of harmful and offensive contacts to Plaintiff's person all of which were done intentionally by defendant to plaintiff without plaintiff's consent.

23. As a direct and proximate result of the aforementioned batteries, Plaintiff has sustained in the past, and will continue to sustain in the future, physical injury, pain and suffering, serious and severe psychological and emotional distress, mental anguish, embarrassment and humiliation.

24. As a direct and proximate result of the aforementioned batteries, Plaintiff has incurred medical expenses and other economic damages, and continues to be in physical pain and suffering, and will be obligated to expend sums of money for medical care and attention in an effort to cure himself of his injuries and to alleviate his pain and suffering, emotional distress, mental anguish, embarrassment and humiliation.

25. Plaintiff is unable pursue his usual activities and employment, all due to his physical, psychological, and emotional injuries and damage he sustained due to the aforementioned batteries.

26. By reason of the foregoing, Plaintiff was caused to sustain severe and serious personal injuries, a severe shock to his nervous system, and certain internal injuries, and was caused to suffer severe physical pain and mental anguish as a result thereof, and upon information and belief these injuries are of a permanent and lasting nature; that said plaintiff was incapacitated from attending his regular activities, and was caused to expend sums of money for medical care on his behalf.

27. By reason of the foregoing, the plaintiff, is entitled to compensatory damages from defendant in such sums as a jury would find fair, just, and adequate, and the plaintiff is

further entitled to punitive and exemplary damages from defendant in such sums as a jury would find fair, just and appropriate to deter said defendant and others from future similar conduct.

28. The amount of damages sought exceeds the jurisdiction of all lower courts that would otherwise have jurisdiction.

29. This action falls with exceptions to Article 16 of the C.P.L.R.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST LINDA LIONETTI

(ASSAULT)

30. Plaintiff repeats reiterates, and reallages each and every allegation contained in those paragraphs of the Complaint marked and designated 1. through 29., inclusive, with the same force and effect as if hereafter set forth at length.

31. Defendant's predatory, sexual and unlawful acts against Plaintiff, created a reasonable apprehension in plaintiff of immediate harmful or offensive contact to plaintiff's person, all of which were done intentionally by defendant to plaintiff without plaintiff's consent.

32. As a direct and proximate result of the aforementioned assault, Plaintiff has sustained in the past, and will continue to sustain in the future, physical injury, pain and suffering, serious and severe psychological and emotional distress, mental anguish, embarrassment and humiliation.

33. As a direct and proximate result of the aforementioned assaults, Plaintiff has incurred medical expenses and other economic damages, and continues to be in physical pain and suffering, and will now be obligated to expend sums of money for medical care and

attention in an effort to cure himself of his injuries and to alleviate his pain and suffering, emotional distress, mental anguish, embarrassment and humiliation.

34. Plaintiff continues to be unable, to pursue his usual activities and employment all due to the physical, psychological and emotional injuries and damage he sustained due to the aforementioned assaults.

35. By reason of the foregoing, plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate, and the plaintiff, is further entitled to punitive and exemplary damages from defendant in such sums as a jury would find fair, just and appropriate to deter said defendant and others from future similar misconduct.

36. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

37. This action falls within the exceptions to Article 16 of the C.P.L.R.

AND AS FOR A THIRD CAUSE OF ACTION AGAINST LINDA LIONETTI

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

38. Plaintiff repeats reiterates, and reallages each and every allegation contained in those paragraphs of the Complaint marked and designated 1. through 37., inclusive, with the same force and effect as if hereafter set forth at length.

39. Defendant engaged in outrageous conduct towards plaintiff, with the intention to cause, or with reckless disregard for the probability of causing, plaintiff to suffer severe emotional distress.

40. As a proximate result of the aforementioned assaults, batteries and false imprisonment to Plaintiff, he has suffered and continues to suffer extreme mental distress,

humiliation, anguish and emotional and physical injuries, as well as economic losses, all his damage in amounts to be proven at trial.

41. Defendant committed the acts alleged herein maliciously, fraudulently and oppressively with the wrongful intention of injuring plaintiff from an improper and evil motive amounting to malice and in conscious disregard of plaintiff's rights, entitling plaintiff to recover punitive damages in amounts to be proven at trial.

42. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

43. This action falls within the exceptions to Article 16 of the C.P.L.R.

AS AND FOR A FOURTH CAUSE OF ACTION FOR NEGLIGENCE

AGAINST THE DUGOUT SPORTING GOODS, INC.

44. Plaintiff repeats reiterates, and reallages each and every allegation contained in those paragraphs of the Complaint marked and designated 1. through 43., inclusive, with the same force and effect as if hereafter set forth at length.

45. At all times herein mentioned defendant THE DUGOUT SPORTING GOODS, INC. owed a duty of care to keep its minor aged employees safe from sexual abuse by its management and/or supervisory staff under its supervision and control, on company premises, that ultimately befell the Plaintiff including, but not limited to, in locis parentis, and THE DUGOUT SPORTING GOODS, INC. had a duty to supervise LINDA LIONETTI.

46. At all times herein mentioned defendant THE DUGOUT SPORTING GOODS, INC. and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner and caused Plaintiff to be sexually assaulted and harassed repeatedly.

47. As a result of the negligence of defendant THE DUGOUT SPORTING GOODS, INC. and/or its agents, servant and/or employees, plaintiff was caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.

48. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant THE DUGOUT SPORTING GOODS, INC. in such sums as a jury would find fair, just and adequate.

49. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant THE DUGOUT SPORTING GOODS, INC. in such sums as a jury would find fair, just and adequate.

50. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

51. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR A FIFTH CAUSE OF ACTION FOR
NEGLIGENT HIRING, RETENTION AND SUPERVISION AGAINST
THE DUGOUT SPORTING GOODS, INC.

52. Plaintiff repeats reiterates, and reallages each and every allegation contained in those paragraphs of the Complaint marked and designated 1. through 51., inclusive, with the same force and effect as if hereafter set forth at length.

53. Defendant THE DUGOUT SPORTING GOODS, INC., had a duty to supervise and prevent known risks of harm to its employees by its management and/or supervisory staff.

54. Defendant THE DUGOUT SPORTING GOODS, INC., was negligent in hiring, retaining and supervising its personnel, such as Ms. Lionetti, who was careless, unskillful,

negligent, reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of management and/or supervisory staff who should have properly been supervising the management and/or supervisory staff to ensure the safety of its minor aged employees.

55. Defendant THE DUGOUT SPORTING GOODS, INC. knew or should have known that Ms. Lionetti sexually abused and/or had the propensity to sexually abuse children and did nothing to stop it.

56. As a result of such negligent hiring, supervising and retention, Plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not yet been ascertained.

57. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums a jury would find fair, just and adequate.

58. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums a jury would find fair, just and adequate.

59. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

60. This action falls within exceptions to Article 16 of the C.P.L.R.

AS AND FOR THE SIXTH CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF

EMOTIONAL DISTRESS

61. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 60., inclusive, with the same force and effect as if herein set forth at length.

62. Defendant THE DUGOUT SPORTING GOODS, INC. and their agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Ms. Lionetti, the manager and/or supervisory staff member who sexually abused Plaintiff, would and did proximately result in physical and emotional distress to Plaintiff.

63. Defendant THE DUGOUT SPORTING GOODS, INC. and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to Plaintiff.

64. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in Plaintiff being sexually abused by Ms. Lionetti.

65. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted Ms. Lionetti sexually abusing Plaintiff.

66. By reason of the foregoing, Plaintiff is entitled to compensatory damages from defendant in such sums as a jury would find fair, just and adequate.

67. By reason of the foregoing, Plaintiff is entitled to punitive damages from defendant in such sums as a jury would find fair, just and adequate.

68. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.

69. This action falls within exceptions to Article 16 of the C.P.L.R.

WHEREFORE, plaintiff demands judgement against defendants in such sum as a jury would find fair, adequate and just containing the following relief:

A. A declaratory judgement that the actions, conduct and practices of Defendant complained of herein violated the laws of the State of New York;

B. An injunction and order permanently restraining Defendant from engaging in such unlawful conduct;

C. An award of damages in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all monetary and/or economic harm; harm to his personal and professional reputations and loss of career fulfillment; for all non-monetary and/or compensatory harm, including but not limited to, compensation for physical anguish and mental anguish; all other monetary and/or non-monetary losses suffered by Plaintiff; and that by reason of the foregoing, Plaintiff sustained damages in a sum, pursuant to C.P.L.R. §3017, which exceeds the jurisdictional limits of all lower courts;

D. An award of punitive damages;

E. An award of costs that Plaintiff has incurred in this action, as well as Plaintiff's reasonable attorney's fees to the fullest extent permitted by law; and.

F. Such other and further relief as this Honorable Court may deem just and proper.

Dated: New York, New York
August 14, 2019

MERSON LAW, PLLC

By: 

Jordan K. Merson
Attorney for Plaintiff
150 East 58th Street 34th Floor
New York, New York 10155
(212) 603-9100

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

Index No.: _____/19

JOHN FINNIGAN,*Plaintiff,***-against -****ATTORNEY
VERIFICATION****LINDA LIONETTI and THE DUGOUT SPORTING
GOODS, INC.,***Defendants.*

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JORDAN K. MERSON, an attorney duly admitted to practice in the Courts of New York State, and a member of the firm MERSON LAW, PLLC., attorneys for the plaintiff in the within action, hereby affirms under penalty of perjury:

That he has read the within complaint and knows the contents thereof, and that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

That the sources of his information and knowledge are investigations and records in the file.

That the reason this verification is made by affirmant and not by the plaintiff is that the plaintiff is not within the County where the attorney has his office.

Dated: New York, New York
August 14, 2019



JORDAN K. MERSON

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Year 2019

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

JOHN FINNIGAN,

Plaintiff,

- against -

LINDA LIONETTI and THE DUGOUT SPORTING
GOODS, INC.,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

Merson Law, PLLC.

Attorneys for Plaintiff(s)

Office and Post Office Address, Telephone
150 East 58th Street 34th Fl.
New York, New York 10155
(212) 603-9100

To: All Parties
